

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

GOVERNMENT'S RESPONSE TO MOTION TO STRIKE SURPLUSAGE

The United States of America, by its attorneys, United States Attorney Michael J. Sullivan, and Assistant U. S. Attorney Peter K. Levitt, hereby replies to the motion to strike surplusage from the indictment, filed by Edwin M. Serrano.

The government does not oppose striking the final section of the Superseding Indictment entitled "Notice of Additional Factors". See United States v. Booker, -- U.S. --, 2005 WL 50108 (Jan. 12, 2005). The defendant was thereby placed on notice of the government's position with respect to the application of the United States Sentencing Guidelines to his case.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: /s/ PETER K. LEVITT
PETER K. LEVITT
Assistant U.S. Attorney

Dated: January 27, 2005